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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,064	07/07/2006	Peter John Houzgo	PC32749A	6152
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PFIZER INC. PATENT DEPARTMENT Bld 114 M/S 9114 EASTERN POINT ROAD GROTON, CT 06340				
EXAMINER SKORUPA, VALERIE LYNN				
ART UNIT PAPER NUMBER				
3771				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

-IPGSGro@pfizer.com

### Office Action Summary

**Application No.**

10/565,064

**Applicant(s)**

HOUEGO, PETER JOHN

**Examiner**

VALERIE SKORUPA

**Art Unit**

3771

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-15, 17-21 and 53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-15, 17-21 and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

This office action is responsive to the amendment filed on June 8, 2010. As directed by the amendment: claims 12, 15, 17, 18, and 53 have been amended, claims 1-11, 16, and 22-52 have been canceled, and no new claims have been added. Thus, claims 12-15, 17-21, and 53 are presently pending in the application.

### *Claim Objections*

1. Claim 21 is objected to because of the following informalities: There appears to be a typo in line 3, which recites "powder from all of the pockets **form** one of said carriers" and it is suggested that the claim be amended to read --powder from all of the pockets **from** one of said carriers--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-15, 17-21, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites "a first support **for a first disc shaped carrier** and a second support **for a second disc shaped carrier**". It appears that the first and second carriers are part of the functional language of the claim and are therefore not positively claimed; however, the following language further defines the first and second carriers. It is unclear whether the first and second carriers are part of the claimed invention.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-15, 17-21, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonney et al. (US 2007/0062525), in view of Ede et al. (US Patent No. 7,401,713).

6. As to claim 12, Bonney discloses a device (Fig. 11a, 11b) for dispensing individual doses of powder from respective pockets of a pair of carriers, the device including: a first support 1018a for a first disc-shaped carrier 1019a and a second support 1018b for a second disc-shaped carrier 1019b, said first and second disc-shaped carriers 1019a,b each having at least one substantially planar first side surface having an annular array of cavities 1020a,b in which respective pockets are formed and a respective first lidding sheet (top of 1019a) sealed to the first side surface for enclosing the cavities 1020a,b, wherein said first and second supports 1018a,b are for rotatably supporting the carriers 1019a,b about a substantially common axis (see Fig. 11a which shows the supports aligned in a common axis); a mouthpiece 1014 through which to inhale an airstream carrying powder from the carriers; a dispensing mechanism 1016a for releasing into the airstream the powder of a respective pocket of a supported carrier (paragraph [0240], ln. 4-7); and an indexing mechanism for rotating the carriers relative to the dispensing mechanism so as to enable powder to be released from

different pockets (the support carriers 1018a,b are rotated to align a pocket with the dispensing mechanism 1016a,b, paragraph [0240], ln. 1-4). Bonney does not disclose that the dispensing mechanism comprising an arrangement for axially moving individually each pocket from a respective storage position to a respective discharge position. However, Ede teaches a dispensing mechanism with means for axially moving a pocket from a storage position to a discharge position (plunger 72 pushes the pocket axially to release medicament (Fig. 17, col. 10, ln. 17-21)). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Bonney to include the means for axially moving the pocket from a storage position to a discharge position as taught by Ede, in order to provide an alternative means for opening the pocket and dispensing powder into the air path.

7. As to claim 13 and 14, Bonney discloses that between consecutive dispensing of powder from one of said carriers and between consecutive dispensing of powder from the other of said carriers, the indexing mechanism is operable to rotate both of said carriers relative to the dispensing mechanism (the user may rotate both carriers together, paragraph [0240], ln. 1-4).

8. As to claim 15, Bonney discloses that the dispensing mechanism is operable to release powder from a pocket of each carrier for a single inhalation of both respective powders simultaneously (Bonney discloses that both elements 1015a and 1015b may be squeezed toward each other simultaneously to release powder from both pockets for inhalation as a combination product, paragraph [0240], ln. 4-11).

9. As to claim 17 and 18, Bonney discloses that the dispensing mechanism is operable to release powder from a pocket of one of the carriers for inhalation, then to release powder from the other of the carriers for inhalation, or to release powder from a pocket of one carrier and from a pocket of the other carrier consecutively (it appears that by only pushing one of the members 1015a or 1015b, the user would be able to dispense powder from one of the pockets and then to push the other of 1015a or 1015b to dispense powder from the other pocket).
10. As to claim 19, Bonney discloses two disc shaped carriers respectively containing different medicament (paragraph [0238], ln. 8-12).
11. As to claim 20, Bonney discloses that between consecutive dispensing of powder, the indexing mechanism is operable to rotate one of said carriers in turn between consecutive dispensing positions before rotating the other of said carriers (it appears that the user may rotate the carriers separately, and therefore, may rotate one carrier before the other).
12. As to claim 21, Bonney discloses that the dispensing mechanism and the indexing mechanism are together operable to dispense the powder from all of the pockets from one carrier before dispensing powder from pockets of the other of said carriers (since there appears to be no structure preventing the carriers from being rotated separately and members 1015a,b from being pushed separately, it seems that the device is operable to dispense powder from all of the pockets of one carrier by rotating only one support 1018a into dispensing position and activating member 1015a

only until all of the powders of carrier 1019a have been dispensed, and then rotating and dispensing powder from the other carrier.

13. As to claim 53, Bonney discloses two carriers 1019a, 1019b, each being supported by a respective support 1018a, 1018b (Fig. 11a).

### ***Response to Arguments***

14. Applicant's arguments with respect to claims 12-17, 20 and 21 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE SKORUPA whose telephone number is (571)270-1479. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571)272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VALERIE SKORUPA/  
Examiner, Art Unit 3771

/Danton DeMille/  
Primary Examiner, Art Unit 3771